IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 870 OF 1992

National Insurance Co. Ltd. ..Appellants

versus

Smt. Shalini V. Patil & Ors. ..Respondents

Mr. M. B. Kotak for the Appellants.

None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 31ST MARCH, 2005

ORAL ORDER :

1. Heard counsel for the appellants. Nobody is present for the respondents.

2. Appellants is the insurance company. Member, MACT Sangli by order dated 31.1.1992 awarded compensation of Rs.70,000/- against original respondent No.3 - Appellant. The owner of the vehicle was exonerated. The accident occurred on 26.6.1981.

3. Counsel for the Insurance Company - appellant contended as per the Rules and statutory provisions prevailing on the date of the accident

and as per the terms of the policy, the liability of the insurance company was to the extent of Rs.50,000/- only, therefore, the Insurance Company could not be made liable to pay Rs.70,000/-. According to him remaining amount of Rs.20,000/- should have been ordered to be paid by the owner of the vehicle - original respondent No.1.

4. In view of these submissions and the legal position, this appeal is required to be allowed. Therefore, order :

ORDER

. Appeal is partly allowed.

. Appellant - Insurance company will pay Rs.50,000/- (Rupoees Fifty Thousand) with proportionate costs thereupon to the claimants and Rs.20,000/- (Rupees Twenty Thousand) and proportionate costs will be paid by the owner of the vehicle i.e. Respondent no. 6 in this appeal.

. Counsel for the appellant states that the Insurance Company have deposited Rs.50,000/- in MACT Sangli, and also Rs.40,000/- in this Court. If that is so then the appellant - Insurance company will be entitled to get back the amount of Rs.40,000/-

deposited in this Court with interest.

. Appeal disposed of accordingly. No order as to costs.

31.3.2005 (D.G. DESHPANDE, J.)